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September 6, 2001

The Honorable John Ashcroft
Attorney General
United States Department of Justice
Tenth & Constitution Avenue, N.W.
Washington, D.C. 20530

Dear General Ashcroft:

Attached to this letter is a subpoena for a number of Justice Department documents, some of which were the subject of my August 29, 2001, letter to you. Specifically, I have subpoenaed: (1) the memorandum by Robert Conrad regarding the appointment of a special counsel to investigate campaign fundraising matters, as well as all related memoranda; (2) the declination memorandum for Mark Middleton; and (3) a number of memoranda relating to decisions to prosecute, or not to prosecute, a number of individuals involved in the Committee's investigation of the Justice Department's handling of organized crime investigations in New England.

I do not issue this subpoena lightly. As I indicated to you when you took office, I had hoped to obtain all necessary information from the Justice Department through letter requests, rather than subpoenas. For the most part, the Justice Department has been very cooperative and responsive to the Committee's requests for information. However, as I indicated in my August 29, 2001, letter, the Department has resisted producing deliberative documents to the Committee. The Department has now announced a policy that it will not produce any internal deliberative documents regarding criminal prosecutions to Congress. As I explained in my letter, I believe that the Department's policy is wrong, both legally and practically, and it will dramatically impact the ability of Congress to conduct effective oversight of the Justice Department.

My staff and I have negotiated with you, your staff, and White House staff for several months in an attempt to reach an accommodation over this issue. I have offered a number of different accommodations which would protect the Department's legitimate interests, while still allowing the Committee to conduct effective oversight. You have not accepted any of my offers. Therefore, I have announced a hearing on this matter, and invited you to testify at the hearing. I

am issuing the attached subpoena in advance of the hearing so that the Committee's demand for the documents is clear and legally enforceable.

The attached subpoena also calls for a number of deliberative records relating to the Committee's investigation of the Department's handling of its organized crime investigations in New England. The Committee has already received extensive information indicating that the Department has a deeply troubled past in its handling of a number of confidential informants who were providing the Department with misleading information, and who were also committing serious crimes while under Departmental protection. The records called for by the Committee's subpoena are central to the Committee's investigation of why the Department refrained from prosecuting these individuals for so long.

I remain hopeful that you will reconsider the Department's position and produce the subpoenaed documents before the Committee's hearing.

Sincerely,

A handwritten signature in black ink, appearing to read "Dan Burton". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Dan Burton
Chairman

cc: Members, Committee on Government Reform